IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MALIBU MEDIA, LLC	
Plaintiff,	
v.	CIVIL ACTION NO. 1:15-cv-00162-LO-TCB
DAEWAN KIM,	
Defendant.	

MEMORANDUM IN SUPPORT OF DEFENDANT DAEWAN KIM'S MOTION QUASH SERVICE OF PROCESS AND DISMISS COMPLAINT

FRCP 4(c) requires a summons and complaint to be served on a defendant in the manner prescribed therein. FRCP 4(e)(2) details the manner in which such service may be effected. Service may be accomplished by serving a defendant personally or through substitute service by leaving a copy of the summons and complaint at the defendant's dwelling or usual place of abode with someone of suitable age and discretion who resides there. *See*, FRCP 4(e)(2)(A)-(B). Service in this manner confers *in personam* jurisdiction by the Court over the defendant. Failing the above, such jurisdiction may be conferred through publication. This option for service is inapposite to this case.

Mr. Kim was never served with the summons or complaint in the instant action, contrary to the service affidavit's allegations. As the affidavits attached to this Motion detail, Ms. Chu, who is not a party to this case, was served the summons and complaint at an address that was not the Defendant's residence or usual place of abode. Therefore, substitute service was not effected on the Defendant Mr. Kim.

Mr. Kim's address is known to the Plaintiff. Why he was not served there is unknown. The exhibits to Mr. Kim's affidavit supporting this Motion clearly show his home address. The utility bills attached to the same affidavit indicate his continuous residence at that address. Ms. Chu, his mother-in-law, asserts that Mr. Kim does not live at her address – the address at which the summons and complaint is purported to have been served.

Finally, the service affidavit signed by the process server Mr. Tilles states an address that does not exist. The zip codes for each of the addresses contained in the affidavit are incorrect. If the affidavit is to be taken at face value, then the affidavit fails, and its credibility comes into question.

Without proper service, the Court lacks jurisdiction over the Defendant, and the case, in its current posture, should be dismissed without prejudice.

NOW, THEREFORE, based on the above facts, as well as those laid out in the Motion to Quash Service of Process and Dismiss Complaint itself, Daewan Kim prays this honorable Court quash service of process in this matter, and dismiss the instant action for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2).

Respectfully submitted,

DAEWAN KIM
Defendant
By counsel

The Glazer Law Firm, PC

/s/

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing Memorandum in Support of Motion to Quash Service of Process and Dismiss Complaint was served via the court's electronic service system, as well as by first class mail, postage pre-paid, this 20th day of July 2015 to counsel for the Plaintiff, William Tabot at 9248 Mosby Street, Manassas, VA 20110-5038.

/s/

Peter J. Glazer, Esq.